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SUBJECT: DOC ANTI-BOYCOTT COMPLIANCE OFFICE COMMENDS GOK
PROGRESS ON ARAB LEAGUE BOYCOTT ISSUES

REF: KUWAIT 153

11. (SBU) Summary: In separate meetings with the Ministry of Commerce and Industry (MOCI), Customs and Kuwaiti Chamber of Commerce and Industry (KCCI), officials from the Department of Commerce (DOC) Anti-boycott Compliance Office commended the progress the GOK has made in eliminating barriers related to Arab League secondary and tertiary boycott of Israel. The delegation highlighted the small number of recent cases of secondary and tertiary boycott language that were found in Kuwaiti contract documents. They offered technical assistance to clean up the language in all tendering and contract documents to fully eliminate the secondary and tertiary boycott in Kuwaiti transactions. GOK officials denied the existence of secondary or tertiary boycott in any GOK contract or tender document. MOCI and KCCI agreed to investigate existing cases and consider alternative text provided by the DOC team. End Summary.

12. (U) The Director and Deputy Director of the DOC Office of Anti-boycott Compliance, and the Anti-boycott Coordinator from NEA/RA visited Kuwait from March 10-12 to discuss Arab League boycott issues with the Kuwaiti government and private sector entities. In addition to meetings with KCCI, MOCI and Customs, the delegation met with several private sector companies and experts that provided anecdotal support for the progress made by the GOK and Kuwaiti companies. Some companies expressed concerns over existing GOK perceptions regarding interactions with Israel that may be detrimental to some companies bidding on government projects.

13. (SBU) MOCI Assistant Under Secretary for Foreign Trade Abdulaziz Al-Khaldi told the delegation that the GOK has taken all necessary steps to eliminate prohibited language from all contract and tender documents dealing with the secondary and tertiary boycott. The delegation assured him that GOK progress has been noticeable and the DOC has received only eight complaints against Kuwaiti entities from U.S. companies in the last year. The goal of the DOC team is to bring that number down to zero, the Director of the Anti-boycott Compliance Office told the Assistant U/S. Al-Khaldi pointed out that the eight documents presented were from private Kuwaiti companies and not related to the GOK. This proves that all GOK documents have been brought into compliance, he argued. The delegation offered technical assistance and expertise to the GOK and Kuwaiti private companies to bring all relevant documents into compliance with USG requirements. Al-Khaldi promised to look into existing complaints and to notify companies of the recommended changes in language.

14. (U) The delegation met with KCCI Deputy Director Rabah

Al-Rabah to discuss working with the Chamber to harmonize private sector contract documents, especially of those companies that are members of the Chamber. Al-Rabah pointed out that most problems with Kuwaiti non-compliance stem from of a lack of understanding about the technical language requirements under U.S. law. Al-Rabah assured the delegation that he will meet with KCCI legal experts and present the recommendations provided by the delegation. He also promised to work with the Anti-boycott compliance office, through the Embassy, to further clarify technical language requirements.

15. (SBU) Director General of Customs Ibrahim Al-Ghanim briefed the delegation on the actions taken by Customs in the last several years to eliminate secondary and tertiary boycott from all GOK transactions. He said that the Customs Anti-boycott Office has been inactive for several years and the staff of the office has been reduced from fourteen in 2000 to the current staffing level of two. He told us that he is tired of USG officials, including embassy officers, visiting his office to question him about secondary and tertiary boycott repeatedly. "You came a few weeks ago and I gave you all the answers you needed, I have nothing new for you," he said. (Note: Embassy econoff met with the DG on February 7 regarding secondary and tertiary boycott, at which time the DG, a cooperative interlocutor on other issues, emphasized that he did not want to receive any more USG visitors regarding boycott issues. See reftel.)

16. (SBU) Regarding attendance at the April 21-24 Arab League Boycott meeting in Damascus, Al-Ghanim repeated that Kuwait will participate but not at high levels. "GOK participation is merely symbolic, we don't actively participate in the discussions," he added. He went on to say the only instances of active Kuwaiti participation have been calls for positive

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change in the Arab League boycott rules. The Customs DG reviewed documents that the delegation provided regarding prohibited language in Kuwaiti contract documents. Al-Ghanim expressed frustration that USG continues to contact him regarding violations in private sector contracts. He dismissed these complaints by adding that USG should contact the private companies directly or work with KCCI to educate the private sector.

17. (SBU) He continued that Customs has disseminated instructional materials to all private companies and associations regarding the elimination of secondary and tertiary boycott. "We have done our part, now any violations that exist are outside our control," he added. He challenged the delegation to present evidence that there have been any violations in GOK tender documents or contracts. The GOK does not even issue certificates of origin anymore, he emphasized. The USG will not find prohibited language in any GOK contracts, he asserted.

18. (U) In addition to GOK meetings, the delegation also met with private companies and a legal expert to gain a private sector perspective on this issue. Most of the companies acknowledged that GOK has made significant progress in the area of the secondary and tertiary boycott. None of the companies had encountered prohibited text in GOK tender documents or contracts. Some companies complained, however, that in some large government tenders, competing bidders use rumors of alleged business relations with Israeli companies as a means to scare the GOK away from picking a particular bidder. (Comment: Although such rumors may be used as tactics by competitors to gain an advantage over another bidder, it is highly improbable that legitimate bidders have lost a tender solely on the basis of such allegations. Post has not heard of any such cases in recent years. End Comment.)

19. (SBU) Comment: This DOC visit, part of a regional visit, was a useful opportunity to address specific cases of secondary and tertiary boycott language in Kuwaiti contracts. In prior meetings with the Embassy, GOK officials have

repeatedly asked for examples of such contracts or tenders. DOC provided copies of eight separate private contracts that included inadmissible text. According to the DOC team, complaints against Kuwait were among the least in the region.

This trip served as a first step towards identifying working-level GOK and private sector points of contact on boycott issues, specifically within MOCI and KCCI. The GOK remains jittery about discussing boycott issues and most officials abdicate responsibility on this issue to the Kuwaiti political leadership. The Embassy requested a meeting for the delegation with the Central Tendering Committee (CTC). Upon clarification that the agenda would be boycott issues, the CTC Director quickly canceled the meeting. Several attempts through the Ministry of Finance and Ministry of Foreign Affairs failed to convince the CTC to meet with the delegation. Despite progress on secondary and tertiary boycott, the GOK remains fearful of any public discussions of this topic. End Comment.

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